

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

DIANE ANDERSON, et al.,

No. 3:20-cv-01194-AC

Plaintiffs,

ORDER

v.

DAVIS WRIGHT TREMAINE LLP, et al.,

Defendants.

HERNÁNDEZ, District Judge:

Magistrate Judge Acosta issued a Findings and Recommendation on July 14, 2021, in which he recommends that this Court deny Plaintiffs' Motion to Remand to State Court. F&R, ECF 42. The matter is now before the Court pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b).

Plaintiffs filed timely objections to the Magistrate Judge's Findings and Recommendation. Pls. Obj., ECF 47. When any party objects to any portion of the Magistrate

Judge's Findings & Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1); *Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc).


The Court has carefully considered Plaintiffs' objections, reviewed the pertinent portions of the record *de novo*, and concludes that removal was proper in this case. The Court agrees with Judge Acosta's finding that Defendant DWT has met its burden of showing that there are more than 100 class members in this case. The Court concludes, however, that Ronald Larson is not a class member as it is more likely than not that Larson is no longer owed anything for his AEM securities. *See* Larson Decl., ECF 18; DeJong Decl. Ex. AA at 201, ECF 27; Schmidt Decl. Exs. G, I, ECF 29. There is no other basis to modify the Findings & Recommendation.

CONCLUSION

The Court ADOPTS in part Magistrate Judge Acosta's Findings and Recommendation [42]. Therefore, Plaintiffs' Motion to Remand to State Court [16] is DENIED.

IT IS SO ORDERED.

DATED: February 23, 2022.


MARCO A. HERNÁNDEZ
United States District Judge